

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES

v.

MALEAK WILSON

)
) CR 2-39, CV 16-892
)

MEMORANDUM ORDER

In this matter, Defendant was sentenced on November 6, 2003. On June 20, 2016, Defendant filed a Motion pursuant to 28 U.S.C. § 2255, challenging his designation as a career offender under the residual clause of the Sentencing Guidelines. The matter was stayed pending authorization by the Court of Appeals to file a second or successive petition. Upon such authorization, Defendant sought and received leave to file an Amended Motion. He then filed a Motion to Stay this matter, pending appellate proceedings in United States v. Green, Appeal No. 17-2906, United States v. Shorter, Criminal No. 02-93, or United States v. Waters, Criminal No. 99-15 (W.D. Pa.). The Court granted a stay, and Defendant was directed to notify the Court after the first of those cases concluded.

Subsequently, on November 30, 2018, Defendant moved to continue the stay, on grounds that the appellant in United States v. Green, 898 F. 3d 315 (3d Cir. 2018), was filing a petition for certiorari.¹ Defendant sought a stay pending resolution of the petition for certiorari in Green, and also pointed to petitions for certiorari pending in other cases, regarding the same pertinent legal issue. This Court continued the stay, and administratively closed W.D.Pa. Docket No. 16-892, the civil action associated with Defendant's Section 2255 proceeding. Defendant then

¹ To quote Defendant, Green held that Johnson v. United States, 135 S. Ct. 2551 (2015), "did not constitute a newly recognized right, such that a petitioner who was sentenced under the then mandatory guidelines and who filed a petition under 28 U.S.C. § 2255 within one year of Johnson, did not file a timely § 2255 petition."

apprised the Court that the Supreme Court had denied certiorari in Green. Green v. United States, 139 S.Ct. 1590 (2019).

The stay is hereby lifted, and Defendant may supplement his Section 2255 Motion by September 23, 2019. If no supplement is filed by that date, Defendant's June 20, 2016 petition will be deemed ripe for disposition.

AND NOW, this 29th day of August, 2019, IT IS SO ORDERED.

BY THE COURT:

A handwritten signature in cursive script, reading "Donetta W. Ambrose".

Donetta W. Ambrose

Senior Judge, U.S. District Court